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A REPORT

OF THE

ACTION

FOR

SEDUCTION,

WHEREIN

BARNABY EGAN, Gent. was *Plaintiff,*

AND

ROB. KINDILLAN, Esq; *Defendant.*

Counsel of the latter J. P. Curran Esq.

Tried before the Right Honourable The Lord Chief Baron of his Majesty's Court of Exchequer in Ireland, and a Special Jury of the Co. Dublin, at the Sittings after the Michaelmas Term, 1791.

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1792.

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ACTION

FOR

SEDUCTION, &c.

EXCHEQUER.

Friday, December, 16th. 1791.

A Liſt of the ſpecial JURY, who tried the Iſſue in this Cauſe.

1 Thomas Aſhworth, of *Donnybrook*, Eſq.
2 Robert Byrne, of *Cornell's Court*, Eſq.
3 Patrick Bride, of *Windſor*, Eſq.
4 Leland Croſtthwaite, of *Ballymount*, Eſq.
5 Matthew Coleman, of *Newtown*, Eſq.
6 Jeremiah D'Olier, of *Butterſtown*, Eſq.
7 Henry Jackſon, of *Clonſkeagh*, Eſq.
8 Alexander Kirkpatrick, of *Drumcondra*, Eſq.
9 Humphrey Minchin, of *Loftus-Hill*, Eſq.
10 Abel Onge, of *Hayſtown*, Eſq.
11 Jacob Poole, of *Black Pitts*, Eſq.
12 Thomas Andrews, of the *Coombe*, Eſq.

Council

Council for the Plaintiff.

Mr. Serjeant Duquery,
William Caldbeck,
Richard Sherridan,
Patrick Duignan,
The Recorder,
James Whiteſtone,
Jaines Sweetman,
} Eſqrs.

Peter Warren, *Attorney for the Plaintiff.*

Council for the Defendant.

John Philpot Curran,
George Ponſonby,
John Egan,
William Johnſon,
} Eſqrs.

Patrick Kelly, *Attorney for the Defendant.*

DECLARATION, *filed* 29*th* June, 1791.

To the Barons of the Exchequer of the Term of the Holy Trinity in the Thirty-firſt Year of the Reign of King GEORGE *the Third.*

County of Dublin, to wit, } BARNABY EGAN debtor of the ſaid Lord the King, comes before the Barons of this Exchequer, the 27th Day of June in this Term by Peter Warren, Gent. his Attorney, and complains by his Bill of Robert Kindellan, preſent here in Court the ſame day, by Patrick Kelly, Gt. his Attorney, of a plea of Treſpaſs on the Caſe for this to wit, that the ſaid Robert Kindellan on the 28th day of July, in the 29th year of the Reign of

of the ſaid Lord the King, at Philipſburgh in the ſaid County of Dublin, made an Aſſault upon *Elizabeth Egan*, ſpinſter, then and there being, the daughter and ſervant of the ſaid *Barnaby*, and then and there debauched, deflowered and carnally knew her, and then and there did carry away the ſaid *Elizabeth*, and from thenceforth did detain her in his cuſtody for the ſpace of one Month and twenty Days, to wit, at the place aforeſaid; he the ſaid *Robert* well knowing her, the ſaid *Elizabeth*, to be the daughter and ſervant of ſaid *Barnaby*. Whereby the ſaid *Barnaby* during the time laſt aforeſaid, loſt the ſervice of the ſaid *Elizabeth*, and the buſineſs of the ſaid *Barnaby* remained undone, and by means whereof, the ſaid *Barnaby* was put to great charge and expence to the damage of the ſaid *Barnaby* 2000 *l.* Sterling. Whereby he is rendered the leſs able to pay the debts he owes the ſaid Lord the King at his ſaid Exchequer, and thereupon he produces his ſuit.

DENIS GEORGE.

Peter Warren, *Attorney for the Plaintiff.*

To which Declaration the Defendant on the 22d day of July, 1791, filed the following Plea.

Robert Kindellan, at the ſuit of *Barnaby Egan*.

AND the ſaid *Robert Kindellan* by the ſaid Patrick Kelly, his Attorney, comes and defends the wrong and injury, when and ſoforth, and ſays he is not guilty in manner and form as the ſaid *Barnaby Egan* hath above declared againſt him, and of this he puts himſelf upon the Country, and the ſaid *Barnaby* does likewiſe the ſame and ſoforth.

GEORGE PONSONBY.

Patrick Kelly, *Attorney for the Defendant.*

Mr. WHITESTONE opened the pleadings.

Mr. Serjeant DUQUERY in a ſpeech remarkable for an elegant ſimplicity of ſtile, ſtated the plaintiffs caſe; he ſaid, Though I feel this caſe ſtrongly, yet I ſhall ſtate the circumſtances with accuracy, and not interrupt that ſtatement with any obſervation, that you, Gentlemen of the Jury, may have them in order.—The plaintiff is a gentleman who was once in a reſpectable line of trade, he afterwards retired to a place called Philipſburgh, in the vicinity of Dublin; his family, conſiſting of himſelf, a wife, a ſon and four daughters.—The eldeſt daughter *Elizabeth*, lived ſeveral years reſpected and eſteemed by all who knew her, or was acquainted with her father, who ſupported himſelf by a plain line of induſtry, not of the firſt claſs, and certainly very far from the loweſt. On the 28th of July 1789, he was at the houſe of a Mr. *Ware*, who reſided in his neighbourhood, with whom a great intimacy ſubſiſted, and there were ſome expectations of his honouring the family with a connexion. On the evening of the 28th of July, when Mr. *Egan* returned, he was informed by a maid ſervant that his daughter *Elizabeth* had gone to viſit her grand-mother, who reſided in the city of Dublin, and had taken with her *Anne Carroll*, a ſervant maid, who will make a conſpicuous figure upon this trial, as there is always upon occaſions of this kind, ſome mean ingredient to be found: The grand-mother being fond of the yonng lady, had frequently kept her all night, and there was no unneaſineſs in the family from her abſence:—But next morning finding ſhe had not returned, the father and mother naturally grew anxious, and they went to the grand-mother for the purpoſe of making

making enquiry; upon being informed that ſhe had not come there; you gentlemen may naturally conceive their ſituation:—There was no conjecture where ſhe could have gone; there was no way to diſcover but by circulating advertiſements among the owners and drivers of the hackney-coaches, who poſſibly might know ſomething of them.—Till the 18th of September following no diſcovery or trace could be had by the father, the uncle Mr. *O'Berne*, or any of the family who interreſted themſelves upon this occaſion; the evening of which day the preſent defendant was taken in the preſence of the father and uncle at the Marine-Hotel; that was the firſt trace that could be had; till that period they knew nothing of her fate:—They got admiſſion into the Hotel, upon enquiring for three perſons, as deſcribed in the advertiſements, for they ſuppoſed there muſt have been a third concerned; the firſt perſon they ſaw was *Anne Carroll*, who endeavoured to eſcape; her maſter ſeized her and brought her back, while the father was ſecuring this inſtrument of the plot, the uncle went up with the waiter, and found the young lady in company with the defendant, there were piſtols on the table, they were levelled, but the defendant had too much prudence to diſcharge them:—The uncle demanded to know whether they were married, they anſwered in the negative. A girl who had never mixed with the world, was a very fit object for an attack of this kind.—The defendant had waited on her, and aſked her whether ſhe had conſidered of the propoſal which *Anne Carroll* had mentioned to her, ſhe ſaid ſhe had not. *Carroll* had told her, that ſhe would be married the day after ſhe left her father's houſe,

and

and ſome other things were mentioned, which uſually catch a young mind—a country-houſe, handſome ſettlement and ſuitable attendance, &c. &c. *Carroll* aſſured her ſhe would be her protectreſs till the ceremony was performed. Thinking herſelf ſafe, Miſs *Egan* went to Dunleary, and found there was no perſon there to perform the ceremony as deſcribed; ſhe fell on her knees and begged to be brought back to her parents. She was brought to Dublin, and the carriage ſtopped at the Ram Inn, about 12 at night; a bed was prepared, and after *Anne Carroll* ſaw every thing ready, and upon a promiſe that *Carroll* would ſleep with her that night, Miſs *Egan* retired to bed:—The promiſe was not fulfilled, and a different perſon occupied her place. The firmneſs of the girl protected her honour, ſhe remained awake all night; between ſix and ſeven next morning, ſhe was put into a carriage, which ſtopped at a houſe which ſhe was told was the Inn at Sallins, and having never been any diſtance from the vicinity of Dublin, ſhe knew not the place; ſhe was put into a field and ordered to walk to Johnſtown, 3 or 4 miles diſtance; a perſon hired for the purpoſe, carried ſome of the defendant's cloaths—this was between 4 and 5, late in the day, and by that time her frame was exhauſted and her mind diſturbed. By the advice of the defendant, ſhe took ſome refreſhment, part of which conſiſted of wine and water, whatever elſe was mixed with it, has never been aſcertained, but her health was afterwards affected for the ſpace of five months, and ſhe became totally ſtupid. In this ſituation ſhe was brought back again to Dublin, and the place of abode was changed; they went to the

Sun

Sun in Queen-ſtreet, there ſhe remained two or three hours, and a ſupper was ordered, at which ſhe was but a bad gueſt; another quantity of the wine and water was adminiſtered. From this houſe ſhe was conducted through a narrow lane, brought to another houſe, and in a ſtate of ſtupefaction, put to bed; an old woman conducted her to the bed; *Carroll* left her, and the defendant came in—the ſcene is eaſier conceived than deſcribed. In this ſituation ſhewas kept a week,andcould not ſee even from the windows any thing but a narrow lane; at the end of the week ſhe was told ſhe muſt remove her lodgings, was hurried away early in the morning and brought to the houſe of a perſon, who may appear as a witneſs for the defendant, a Mrs. *Ford.* From thence ſhe was brought to a Mrs. *Geoghegan,* then to Skerries, for the purpoſe of taking ſhipping for the Iſle of Man. She remained ſome time in a ſtate of deſpondency, ſo much ſo, that her tears attracted the obſervations of many, who aſked her, with much earneſtneſs to know what was the matter?—ſhe paſſed for the wife of the defendant, and ſtill hoping he would be honourable, did not diſcloſe her ſituation. After three or four days a veſſel was hired to the Iſle of Man, where ſhe remained a fortnight, during which time ſhe often threatened that ſhe muſt run away to her father and mother, but ſhe was under his power, and had not the opportunity to execute her ſcheme; ſhe was then brought back to Dublin, when the diſcovery which I before related, was made by her father and uncle, and ſhe was by them brought home. It was the reſolution of the family to commence a criminal proſecution againſt the defendant for an offence, that certainly, if ſupported

ported, would have been capital. During the period of this reſolution the defendant was three times in the family; the object was to endeavour, if it could be accompliſhed, that the ceremony ſhould be paſſed through. However, after ineffectual negotiation, it was declined. It it is proper to mention, that the proſecution was proceeded upon, it may be mentioned on the other ſide, with ſome degree of triumph, without any relation to this caſe:—The queſtion there was, whether there was that degree of violence which conſtituted a rape?—though it was not a rape, it was ſeduction, a cruel aſcendancy gained over the mind of the perſon, which though it takes away the power of the criminal court, muſt undergo the inveſtigation of a civil one; the plaintiff as father and maſter is entitled to damages. The court will inform you, gentlemen, that a father is ſo entitled where a child acts in a family, which we will prove this lady being the pride of her family, and of great perſonal attractions, conſiderable ſums of money had been expended upon her education. It will be proved that ſhe was of great ſervice, not ſo much as an older perſon might perform, yet they were ſuch as moved from a principle of duty, and if ſhe had been ſuffered to remain they would have encreaſed. The defendant is a man of conſiderable rank in the army, of high fortune for the preſent, and large expectations; and it may be ſome conſolation that where an injury has been committed, he can make ſome compenſation in damages, having a property which may make reparation to the father. But, all the damages which you can give, will never reſtore the lady's honor or peace of mind. I do not wiſh to make any obſervations,

you

you have a judge, who will direct you as to the law. If there be any thing in any deſcription of men which makes them conceive that youth and beauty are only incentives to plunder, it certainly has not arrived to that claſs from whence you come; and theſe facts ſtated without any obſervation have more weight with men who feel as fathers that have children.

Firſt Witneſs, Miſs *Elizabeth Egan*.

Examined by Mr. RECORDER.

Q. Do you know the plaintiff?
A. I do.
Q. What relation is he to you?
A. He is my father.
Q. Do you know the defendant?
A. I do.
Q. Do you remember the month of July 1789.
A. I do.
Q. Do you remember where you firſt ſaw the defendant?
A. I do,
Q. Where did you firſt ſee him?
A. In Phillipſburgh-lane.
Q. Is that in the county of Dublin?
A. I believe it is.
Q. Was it there your father lived?
A. It was

Q. Where in Philipſburgh-lane did you ſee the defendant?

A. At my father's houſe.

Q. Do you know what brought him there?

A. I thought with a propoſal of marriage; ſo I was made to believe.

Q. In what part of your father's houſe were you?

A. I was in my chamber.—He was aſked in, I ſuppoſe, by a ſervant maid, and when I went into the parlour, I found him there.

Q. Had you ſeen him before that time?

A. Yes, I ſaw him ſeveral times paſs by the window.

Q. Did he ſay any thing to you?

A. Yes; he aſked me had I conſidered the propoſals made on his part, which he ſent by *Anne Carroll*, who was then preſent.—I conſidered them as propoſals reſpecting marriage.

Q. Had ſhe made any propoſals before?

A. She had ſeveral times, which ſhe ſaid would be the worſt action of my life to refuſe.

Q. What anſwer did you make?

A. I ſaid, "Our acquaintance is too ſhort to conſider of them."—He ſaid, "No time is too ſhort to be happy,"—or words to that effect.

Q. How long did you remain in his company on that occaſion?

A. From eleven in the forenoon 'till near three.

Q. Do you recollect any thing elſe material that paſſed upon that occaſion?

A. I do not.

Q. Do you remember the next time he was in your company?

A. The evening following.

Q. At what place? A. I

A. I met him at the bridge about 5 in the evening.

Q. What bridge?

A. Ballybough Bridge.

Q. What did he ſay to you there?

A. He did not ſay much.—I do not recollect particularly,—as ſhe had told me I was to go to Dunleary to be married to him.

Q. Was there any one with you?

A. Yes; *Anne Carroll.*

Q. Who was ſhe?

A. The ſervant maid that lived with my father.

Q. At what age were you reputed to be in the month of July, 1789?

A. Not quite eighteen.

Q. Was he on foot, or in a carriage?

A. He was on foot.

Q. Where did you go then?

A We went to Dunleary.

Q. How were you conveyed?

A. In a carriage.

Q. Do you know who provided that carriage?

A. *Robert Kindillan* himſelf.

Q. Did you go willingly into it?

A. I did.

Q. You thought you were going to be married?

A. I did certainly.

Q. Do you know what time you arrived at Dunleary?

A. I cannot tell.

Q. Was it the ſame evening?

A. It was.

Q. How long before dark?

A. It was a ſummer evening,—it was not dark.

Q. How long did you remain there?

A. About an hour.

Q. Did

Q. Did you go into any houſe there ?

A. Yes.

Q. Was it a public or a private houſe ?

A. I believe it was a public houſe.

Q. Did any converſation paſs between you there, relative to the intention upon which you came ?

A. No; he quitted the room.

Q. Where did you conſider he went to ?

A. I conſidered, and was told by *Nancy Carroll* that he went for the Clergyman.

Q. How long did he ſtay away ?

A. About a quarter of an hour.

Q. What did he ſay upon his return ?

A. He found me in tears, and kneeling at the window; he raiſed me up, and ſeeing *Nancy Carroll* cry too, he reproved her and was very angry with her.

Q. Did the ſame coach remain for you ?

A. Yes.

Q. Where did you go from Dunleary ?

A. I cannot tell.—He called at many places.

Q. Did you return to Dublin ?

A. Yes.

Q. Do you know at what time ?

A. I do not :—it was dark.

Q. Do you know at what houſe you ſet up at ?

A. No :—I was told it was the Ram-Inn, in Aungier-ſtreet.

Q. What ſort of a place were you brought to ?

A. Into a parlour.

Q. Did you remain long there ?

A. Yes :—a good while.

Q. Where did you go from that ?

A. I was ſhewn into a bed-chamber, by myſelf.

Q. Did you remain by yourſelf there for any conſiderable time ?

A. No :—I was followed by *Nancy Carroll.*

Q. Did any one follow her ?

A. Not for ſome time.

Q. Were there more beds than one in the room ?

A. No.

Q. Who did you expect was to ſleep there ?

A. *Nancy Carroll* and I.

Q. Did you ſee the defendant again that night ?

A. Yes.

Q. Did he go into that room ?

A. Yes.

Q. (*By the Court,* Did you go to bed ?

A. Yes.

Q. Did the maid go to bed ?

A. She undreſſed herſelf, but the defendant came in before ſhe was entirely ſtripped.)

Q. What did you ſay, when he came in ?

A. I inſiſted upon calling back the ſervant, and that he ſhould leave the room.—He refuſed, and aſked me was I looſing my ſenſes, or was I a fool.

Q. Did *Anne Carroll* leave the room when the defendant came in ?

A. She did immediately.

Q. Did ſhe come back ?

A. She did not.

Q. Did he make any promiſe upon that occaſion ?

A. No : he did not ſay much after.

Q. Where did he remain that night ?

A. For ſome time he remained in a chair ; but when I began to doſe, he remained no longer there.

Q. Was there any violence done to your perſon that night ?

A. No.

Q. Was there any attempt ?

A. Yes.

Q. How long did you remain in that houſe ?

A. That night, and untill about eight next morning.

Q. Did you walk, or were you conveyed away ?

A. I was conveyed in a carriage.

Q. What ſort ?

A. In a poſt-chaiſe.

Q. Who accompanied you ?

A. *Nancy Carroll* and the defendant.

Q. Do you know where you were carried to ?

A. No;—I heard the name of the place was Johnſtown.

Q. Was that the firſt place you went to ?

A. I think it was to Sallins firſt.—We breakfaſted at Sallins.

Q. Where did you go from Sallins ?

A. To Johnſtown.

Q. How did you go there ?

A. We walked.

Q. Who was in your company ?

A. A boy, *Nancy Carroll*, and the defendant.

Q. What brought the boy with you ?

A. He carried the defendant's ſurtout coat.

Q. At what time of the day did you arrive at Johnſtown ?

A. Twelve or one.

Q. How long did you remain there ?

A. Half an hour, or an hour, I cannot tell which.

Q. Was there any converſation about the ceremony, all this time ?

A. I cannot recollect.

Q. Were you offered any refreſhment at Johnſtown ?

A. Yes.

Q. By whom ? *A.* By

A. By the defendant.
Q. Did you take any?
A. Yes.
Q. What was it?
A. Madeira wine and water, I believe.
Q. Did you take any thing elſe?
A. No.
Q. Had it any particular effect upon you?
A. I found myſelf ſicken and grow ſleepy, in about an hour and a half after—it had not an effect upon me all at once.
Q. In what way did you leave Johnſtown?
A. In a poſt-chaiſe.
Q. Who accompanied you?
A. *Nancy Carroll* and *Robert Kindillan.*
Q. Where did you go to?
A. We came to town.
Q. What houſe did you ſtop at?
A. The Sun Inn, in Queen-ſtreet.
Q. How long did you continue there?
A. For about two hours.
Q. Did you remain there 'till after it was dark?
A. We did.
Q. Did you take any refreſhment there?
A. I did.
Q. Will you mention what?
A. Wine and water.
Q. Did you ſtay there all night?
A. No: we went to a place which I was informed afterwards was Mrs. *Greene's,* in Tighe-ſtreet.
Q. Mention the mannner in which you went.
A. It was very dark,—I took very little notice of the way;—the waiter brought a light,—*Nancy Carroll* was behind me;—we went in thro' an entry.
Q. Did you go up ſtairs?
A. Yes:—into a dining room.

Q. Did the defendant and *Carroll* accompany you?

A. They did.

Q. Did you remain there all night?

A. We went into another room.

Q. Had you at that time got rid of the ſleepineſs?

A. No: I had not.

Q. Was the room a bed-room?

A. It was.

Q. Did you go to bed there?

A. I did.

Q. Was it long before you fell aſleep?

A. Not long.

Q. Were you wakened afterwards by any perſon?

A. I was.

Q. By whom?

A. By *Robert Kindillan.*

Q. Was there any violence committed there upon you?

A. I was in a ſtate of inſenſibility.

Q. Do you know whether there was, during that ſtate of inſenſibility, any violence committed?

A. There certainly was.

Q. By whom?

A. By *Robert Kindillan.*

Q. (*By the Court,* What! during your ſtate of inſenſibility?

A. Yes.)

Q. Did any body remain in bed with you 'till morning?

A. Yes: *Robert Kindillan.*

Q. Do you know where *Anne Carroll* was this time?

A. No.

Q. When did you ſee her again?

A. In the morning.

Q. At what time did you leave this houſe?

A. About half paſt twelve next morning.

Q. Where did you go afterwards?

A. I think we dined at Dunleary or ſome ſuch place.

Q. Did you return to Dublin that evening?

A. We did.

Q. Where did you ſtop on your return?

A. At Mrs. *Geoghegan's* in Queen-ſtreet.

Q. What name did you go by there?

A. By the name of *Parker*.

Q. What name did the defendant paſs by?

A. *Parker*.

Q. Did you paſs as related to each other?

A. As man and wife.

Q. How long did you remain there?

A. A week or ten days.

Q. Where did you go from that?

A. To Mrs. *Ford's* in Cabbage-garden-lane.

Q. Where did you go from that?

A. To the Iſle of Man.

Q. Where did you take ſhipping from?

A. From Skerries.

Q. How long did you remain at Skerries?

A. Two days, or a day and a half.

Q. During all this time were you diſcontented or ſatisfied?

A. I was ſatisfied, becauſe I expected to be his wife.

Q. How long did you remain in the Iſle of Man?

A. A month or five weeks.

Q. What name did you go by there?

A. By the name of *Kindillan*.

Q. Did you paſs there as man and wife?

A. Yes.

Q. Where did you go next?

A. We came back to Dublin.

Q. How ſoon after did you ſee your friends and relations.

A. Immediately after my return.

Q. What houſe did you ſet up at?

A. The Marine-Hotel.

Q. Which of your friends did you ſee there?

A. My father and uncle.

Q. Had the defendant any arms there?

A. He had.

Q. Did he make any oppoſition to your father?

A. Not the ſmalleſt.

Q. You went away with your father?

A. I did.

Q. How many brothers and ſiſters have you?

A. Three ſiſters unmarried, two married, and one brother.

Q. When you lived with your father were you of any uſe to him?

A. I believe I was a good deal.

Q. What did you do for him?

A. Every thing that was to be done, I made moſt of the children's cloaths, and my mother's caps.

Q. Had you the cuſtody of the keys?

A. Yes:—I had the keys of the cupboard and the pantry conſtantly.

Croſs-Examined by Mr. CURRAN.

Q. How long before you went off with Mr. *Kindillan* did you know him?

A. About a week or a fortnight.

Q.

Q. How long before had you any converſation with him?

A. I received ſeveral meſſages by *Nancy Carroll* from him, I ſpoke to him a week or ten days before.

Q. What converſation had you with him?

A. It run on nothing particular.

Q. Do you remember the next converſation?

A. It was in the parlour, I do not recollect how many days before we went off.

Q. Recollect whether it was not very ſhortly before?

A. I believe it was.

Q. Do yo not believe it was the day before?

A. No:—I do not.

Q. Do you not believe it was two days before?

A. Yes:—I believe it was two or three days before.

Q. Had you any other converſation but theſe two?

A. None other.

Q. Was it general the laſt time?

A. No:—Love and marriage was what he talked of.

Q. Love may be inſinuated in general terms, but what did he ſay of marriage?

A. He aſked me had I conſidered the propoſal from *Nancy Carroll*.

Q. Did he ſay any thing of marrying you?

A. Yes: I think he did.

Q. You do not ſay poſitively?

A. Yes: he did.

Q. Did he ſay he would marry you?

A. No: he did not.

Q. Did you name any time or place at which you expected to be married?

A. No: he named Dunleary.

Q. Did he appoint it with any particular view?

A. No: he did not, but *Nancy Carroll* ſaid it was for the marriage.

Q. From the ſecond converſation till the meeting at the bridge, was there any converſation between you?

A. No.

Q. Did you know any thing of his ſituation or circumſtances?

A. I did, from *Nancy Carroll.*

Q. From her only?

A. Yes.

Q. When at Dunleary did you not ſuſpect that his deſign was not marriage?

A. At firſt I thought not.

Q. Did you at any of the places expect a clergyman?

A. Yes: I thought every time he ſtopped he wanted a clergyman.

Q. Did he enquire for one?

A. No: he did not.

Q. Did he enquire for a bed at every place he ſtopped?

A. He always aſked for a bed-room.

Q. Did he aſk for a bed-room at the Ram-Inn?

A. I do not know; he left me in the coach for a while.

Q. (*By the Court*, did he ſay any thing that made you believe he intended marriage there after he left Dunleary, or while there?

A. He did.—He deſired me not to be uneaſy, he would make me the happieſt woman upon earth.

Q. Did he make uſe of the word *marriage?*

A. No.

Q. Did

Q. Did you underſtand from what he ſaid that he intended marriage?

A. Certainly I did.)

Q. Next morning when leaving the Ram-Inn, on your oath, did you not ſuſpect that he would not marry you?

A. On my oath, I did not ſuſpect any ſuch thing.

Q. You gave evidence before, and of courſe you remember what you ſaid; on your oath, did he talk of a prieſt, or marriage at the Ram-Inn?

A. I cannot recollect whether he did or not, we diſcourſed ſo often together that I do not recollect.

Q. Did he mention, or did you call upon him at Mrs. *Green's* to get a prieſt, and have the marriage performed?

A. No: I did not.

Q. Nor at Aungier-ſtreet?

A. No: I ſent *Nancy Carroll* to him, to ſpeak to him; it was a delicate ſubject for ſo young a perſon as I was.

Q. There were other more delicate circumſtances in your caſe, upon the proſecution did you give evidence voluntarily or by compulſion?

(*The witneſs making a pauſe of ſome minutes,* Mr. CURRAN *obſerved,* "*This queſtion* Miſs EGAN, *coſt you ſomething once before, it hurt my feelings too, to preſs it upon you;—I aſk you again, did you give evidence voluntarily or by compulſion?*)

A. I did not give evidence of my own free will, from the promiſes that were made to me in my father's houſe, at that time by the defendant.

Q. Did

Q. Did not your father force you to give evidence upon the trial?

A. I asked him (the *defendant*) do you intend to do me justice, for if you do not, my father will force me—"By God!" said he, putting his hand upon his breast, "I will do you every justice man "can do; I have but two friends to ask, and when "I have their opinion, I will do you justice."—Then said I, nothing shall happen.

Q. Did not your father menace you with a knife in his hand?

A. He said he had a mind—

Q. To do what?—Was it not a menace against your life?

A. He did say so, but I knew there was no danger.

Q. Has there been any compulsion used to bring you into this court?

A. I came perfectly uncompelled.

Q. No threatening used?

A. On my oath, there was not.

Q. On your oath, your father never used threat to compel you to give evidence in this action?

A. He did not.

Q. Were you ever treated with cruelty by your father or mother since?

A. Not so well as before.

Q. Were you well treated before?

A. Always with kindness: never with severity.

Q. You said before, that from your meeting him on the bridge, till your parting at the Hotel, there was no direct conversation about marriage?

A. There was in the Isle of Man.

Q. When was that?

A. On seeing me concerned, he asked me what would

would make me happy? he ſaid he depended upon his mother for his fortune, but would marry me in ſome time.

Q. Was there ever any other?

A. There was, in the Iſle of Man alſo, he deſired me to bring him a prayer-book and he would ſend for a clergyman; the prayer-book in the houſe had not the marriage ceremony in it, ſo he did not ſend.

Q. Did you ever ſay that you conſidered the marriage ceremony as mere ceremony, and that if he never aſked you, you would never aſk him?

A. By virtue of my oath, I never did.

Q. Did you not ſay it to me npon the trial for the proſecution?

A. I think not; unleſs you made me ſay it againſt my inclination.

Q. You are the eldeſt of your father's daughters?

A. I am theſe three years.

Q. Your father keeps ſervants?

A. He does.

Q. Would not a female ſervant of ſix or ſeven pounds a year, render as much ſervice to your father as you did?

A. No: I think not.

Q. Was Mr. *Kindillan* acquitted upon the trial?

A. I believe he was acquitted.

Q. Did you not ſwear that poſitive violence was committed by him upon your perſon?

A. I did.

(Here the croſs-examination cloſed, when Mr. RECORDER begged permiſſion to aſk a few queſtions which aroſe out of it.)

Q. When

Q. When you brought the prayer-book, was it a Roman Catholic prayer-book?

A. It was.

Q. Is the marriage ceremony in all Roman Catholic prayer-books?

A. No: It is in ſome.

Mrs. ANNE BURNET, *examined by*

Mr. CALDBECK.

Q. Where do you live?

A. At the Marine-Hotel.

Q. Do you remember at any time in the month of September 1789, a gentleman and lady coming to your houſe?

A. I do.

Q. Do you know their names?

A. I do not.

Q. Was the young lady, juſt now upon the table, one of them?

A. I cannot tell.

Q. Do you remember any perſon coming to your houſe to take away a young lady?

A. Yes: her father and uncle, the father's name was *Egan*, the uncle's name *O'Berne*.

Q. When the gentleman and lady came firſt to the houſe, did they paſs as married or unmarried?

A. I thought them married, but cannot tell.

Q. Did you diſcover they were not married?

A. Not until her father and uncle came.

Q. Had you any diſcourſe with them?

A. They all went away together.

Q. Had

Q. Had you any diſcourſe with Mr. *Kindilan*?

A. Never untill the father and uncle came.

Q. Mention what paſſed in your preſence?

A. I will as well as I can recollect.

Q. Did you ever aſk him his name?

A. I did when the father and uncle came, he made no anſwer.

Q. When they came, where were the lady and gentleman?

A. In a bed-chamber.

Q. Did you go up with the father?

A. Not untill I heard loud voices, I went up to ſee the cauſe.

Q. What did you hear and ſee?

A. I heard the uncle aſk him who and what he was, he ſaid he was a gentleman; I ſpoke to him and deſired him to tell her friends if he was her huſband, they could not take her away —He ſaid he would not be forced to anſwer.

Q. Was it day or night when they came?

A. They came at nine at night.

Q. Do you know whether they came from ſea, or were going to ſea?

A. They came in the Iſle of Man packet.

Q. Was there any one with them?

A. There was a woman called *Nancy*; I believe the perſon named by the young lady when on the table.

Q. How long were they at your houſe?

A. Two nights and a day.

(*This witneſs was not croſs-examined.*)

Mr. JOHN O'BERNE, *examined by*

Dr. DUIGENAN.

Q. Do you know the plaintiff?

A. I do.

Q. Do you know the defendant?

A. I have ſeen him.

Q. Do you remember the time when the plaintiff miſſed his daughter?

A. I recollect he called on me next day.

(*Here it appearing that this witneſs could give no poſitive teſtimony againſt defendant, the direct examination was diſcontinued.*)

Croſs-Examined by Mr. EGAN.

Q. What relation are you to the plaintiff?

A. I am brother-in-law.

Q. Do you know of any ſevere treatment or menace from the plaintiff to his daughter?

A. Never untill this tranſaction occurred.

Q. Did you know of any previous to the proſecution in the King's-Bench.

A. I cannot ſay that I knew of any.

Q. Did you hear and believe it?

A. I did hear he would have been ſevere if it was not for my interceſſion, I begged of him not to uſe her in any harſh or worſe manner than he treated her before.

Q. Did you ever adviſe him to threaten to cut off her hair and lock her up?

A. I never did.

Mr. CURRAN.

My Lord, and Gentlemen of the Jury.

I am in this caſe counſel for the defendant.—Every action to be tried by a Jury, muſt be founded in principles of law:—Of that however, the court only can determine, and upon the judgment of the court, you gentlemen, may repoſe with great confidence.—The foundation of this action is built upon this principle of law, and this only, that the plaintiff ſuffered ſpecial damage by loſing the *ſervice* of his daughter, who has been taken away from him:—For you gentlemen, will err egregiouſly, and the court will tell you ſo, if you imagine that the law has given any retribution by way of damages, for all the agony which the father may ſuffer from the ſeduction of his child—however, I do not mean to make light of the feelings of a parent—he would be a ſtrange character, and little deſerving the attention of a court who could act in that manner, to ſee his grey hairs brought with calamity to the grave, and yet hold him out as a ſubject of levity or contempt—I do no ſuch thing—but I tell you ſoberly and quietly, that, whatever his feelings may be, it is a kind of miſery, for which the law does not provide any remedy—No action lies for debauching or ſeducing a daughter; but only for the loſs of her ſervice. It has been decided over and over again, that the only ground is the ſpecial circumſtance of the loſs of ſervice—at the ſame time, gentlemen, I agree implicitly in the idea of letting the caſe go at large to you:—In every injury, which one man ſuſtains from another, it is right to let all circumſtances, which either

either aggravate or diminiſh the weight of it, go to the jury. This caſe has been ſtated in evidence by two perſons—Miſs *Egan* has told, I think, the moſt extraordinary ſtory—

Lord Chief Baron. *The moſt artleſs ſtory I ever heard.*

Mr. Curran. I do not allude to her credit; I only ſay I never heard ſo extraordinary a ſtory—becauſe I never heard of an inſtance of a young woman, decently bred, arrived at eighteen, going away with a man, after a ſingle converſation, having no previous acquaintance, no expreſs promiſe; abandoning her father's houſe, protection and care, after two converſations in which there was not one word of marriage, without a previous opportunity of engagement; without a poſſibility of gaining her affections, or ſeducing her from her father, ſhe embraces the firſt opportunity which was given to her; therefore, indeed I am aſtoniſhed. I ſaid, gentlemen, the caſe ought rightly to go before you—I tell you why?—Circumſtances which compoſe the enormity of an offence of this kind, can be judged of by you, if you receive a man into your houſe, give him acceſs to any female in your family and he converts that privilege to abuſe her virtue, I know nothing of greater enormity—If you admit a man to your houſe and your table, and he avails himſelf of that confidence to abuſe the virtue of your daughter or your wife; I know of no length to which the juſt indignation of a jury might not be carried—But if there be no ſuch criminality on the part of the defendant. If he was rather the follower than the mover of the tranſaction, his conduct may be palliated, it cannot be condemned. Look at this caſe even as ſtated by the

the witneſs herſelf—Who was the ſeducer? Mr. *Kindillan*?—Where was the ſingle act to inſpire her with a reaſonable hope, that he intended to marry her?—Why ſteal away from her father's houſe?—Why go to a public inn, at a common ſea-port?—Even at that age, and with that degree of underſtanding you ſee her poſſeſs?—She confeſſes ſhe ſuſpected there was no deſign of marriage, that at Aungier-ſtreet he ſpent a night with her, and no deſign of marriage; they cohabited week after week, and no converſation of marriage till they leave their mother country and arrive at the Iſle of Man—and then from whom does it move? not from her, who might have talked even with a degree of pride, if ſhe thought he took her away from her father.—"You have robbed me of a fa-"ther, under the promiſe of becoming my huſ-"band—give me that protector!"—No: you find it moving from him, from his apprehenſion of her diſſatisfaction, if you can believe that;—What kind of education muſt ſhe have received?—ſhe throws herſelf into the arms of the firſt officer ſhe ever ſaw; flies into a hackney-coach, and goes to another country, and never talks of marriage till ſhe arrives there!—To talk of the loſs of a father is a very invidious ſubject; every father muſt feel an argument of that kind—But it is not becauſe one man ſuffers, that another muſt pay—It is in proportion to his own guilt that he muſt be puniſhed, and therefore it is that the laws denies the right of the father to receive compenſation.—It is an injury which can rarely ariſe, where the father has diſcharged the precedent part of his duty: It is wiſe therefore that the law ſhould refuſe its ſanction to an action of that ſort; becauſe it calls upon

upon the father to guard againſt that event for which he knows he can have no reparation. It guards more againſt the injury by diſcountenancing the neglect which may give it birth; it refuſes a compenſation to reward his own breach of duty; only ſee what would be the conſequence if the law gave its ſanction to an action of this ſort:—This man is in the army—I am not here to preach about morals, I am talking to men who may recollect that human nature is not more perfect than it is, but who muſt take men as they are. This man goes to a watering place, he ſees this young woman, full of giddineſs and levity; no vice poſſibly, but certainly not excuſeable in any female—See how ſhe conducts herſelf—"Have you conſidered the propoſals?" "No," ſays ſhe, "our acquaintance is too ſhort,"—but the ſecond converſation and ſhe is gone. How would any of you, gentlemen, think of your child, if ſhe picked up a young buck whom ſhe never ſaw before? what would your wife ſay, if ſhe was told her daughter had picked up a man ſhe did not know; but you know mankind, you know the world. What would you think of a woman, unmarried, who held a converſation upon theſe terms—If at Philipſburg you addreſſed a young woman, with whom not a word of marriage paſſed, and yet ſhe accompanied you without heſitation—would you ſuppoſe her a female of family and education? or would you not rather ſuppoſe her to be one of thoſe unfortunate, uneducated creatures, with whom a converſation very different from that of marriage takes place; this then is the ſituation of the defendant, he yields more ſeduced than ſeducing. It is upon this the father calls to you for damages!—For an injury

injury committed by whom? from what cauſe?—From the indiſcreet behaviour, the defective education and neglected mind of his daughter. He can have no feeling, or he would not have expoſed both her and himſelf; or if he has any feelings, they are ſuch as *can* be gratified by you gentlemen of the jury, they are ſuch as can be calmed by *money!*—He can find more enjoyment in pecuniary compenſation, than in any other ſpecies of retribution!—I ſpeak harſhly, I am obliged to do ſo, I feel it, it is for you to decide with liberality and juſtice between ſuch a father and the defendant.

I am ſtating theſe things, ſuppoſing you believe her. Her ſtory is well delivered, it would be extraordinary if it was not, when it has been ſo often repeated. The defendant was tried for his life, and twelve men upon their oaths acquitted him of the charge; though the fact was ſworn to by her: Her ſufferings and her beauty may make an impreſſion upon your minds; but, gentlemen, you are not come here to pity, but to give a verdict; not from paſſion, but which may be the calm reſult of deliberation between party and party.—There is a kind of falſe determination of mind, which makes dupes of judicial men upon caſes which involve more ſentiment than ſpeculation.—If you feel any ſuch ſenſation in your minds, glowing and heating to a degree of violence in which reaſon may be conſumed, let me entreat you to guard againſt its falling upon the head which ought not to ſuffer; we are not to determine by zeal, but judge by diſcretion. It is not her tears, her heavings, her ſighs, that muſt influence your ſentence; ſhe has been wrought up a ſecond time by her father, and exhibited before you, the unhappy

object

object of vice and of wantonneſs! She has been thus exhibited by that father, whoſe feelings are repreſented as ſo tender; an exhibition which ought to have been avoided by a ſincere parent.—But let me expoſe the filly trap, that you may not be the dupes of ſuch artifice; it was a ſimple caſe: It could have been proved without her teſtimony; the leaving her father's houſe could have been proved by many, and of the finding her in the defendant's poſſeſſion, there was ſufficient evidence, and the ſervice could be proved as well by any perſon as herſelf. But the circumſtances are proper for conſideration; give me leave to ſay there are no circumſtances more proper for conſideration than the motives of the man who brings the action; what his conduct was, appears by her own evidence; ſhe goes away with a man, he is ſeiſed and called upon to marry her, under the terror of a proſecution for his life; a ſpecies of inducement, ſuch as never was heard of. Let it not be told, that a caſe of this kind, that the inſolicited elopement of a young unfortunate woman, yielding to criminal deſires, going off with an officer upon a firſt acquaintance, is an example to be held up by a court and jury, or to be ſanctioned by a verdict; that a looſe girl coming back from the cloyed appetite of her paramur, ſhould welcome her return to her father's houſe by the golden ſhowers of compenſation. If you wiſh to hold up examples to juſtify elopements of your children, eſtabliſh it by your verdict! and be anſwerable for the conſequence; you will reſolve yourſelves into a fund for unportioned wantons, whoſe fathers will draw upon you for fortunes; you will eſtabliſh an example—I am not aſhamed to be warm—I do

not

not ſell my warmth, though I may my talents; but give me leave to tell you that an example of this kind, where no abuſe of confidence can be pleaded, no treachery alledged, would go thus far, that every miſerable female, who parades about your ſtreets, in order to make a miſerable livelihood by the proſtitution of her perſon, will come forward under the impoſing character of a witneſs, becauſe there is ſcarce any of them who has not a father that may bring an action. Let me warn you againſt another caſe; you will eſtabliſh an example by which the needy father is encouraged; firſt, to force the man into marriage under the apprehenſion of a proſecution, or afterwards to compel him from the dread of a verdict, unleſs you think that the man could be reconciled to marry a girl he is tired of, and who has added perjury* to the reſt of her conduct. It is hard to talk of perjury; but how will they anſwer for the verdict of twelve honeſt men upon their oaths?—I impeach her credit, beeauſe ſhe is ſwearing this day to the fact in oppoſition to the verdict of twelve men—ſhe ſwore to it upon the proſecution, becauſe of terror from her father, expecting to receive death from his hands, unleſs ſhe warded it off by perjury. Have you not heard that he forced her into the King's Bench, with a knife in his hand? After he has failed to affect the life of the defendant, he makes a deſperate attempt at his property, through the means of a jury—is this a caſe for a jury?—

* Theſe obeſervations muſt be conſidered as flowing from the warmth of the advocate's zeal; but the opinion of the bench, and more eſpecially the verdict of the jury this day, ſeem to have removed every imputation, and amply to have vindicated the character of the witneſs.

ſhe goes off unſolicited, ſhe ſeeks the opportunity, and yet Mr. *Kindillan* is to be the victim!—A young man who meets a woman, goes to a tavern, and indulges his appetites at the expence of the peace, quietneſs and happineſs of a family; you may wiſh to ſee reformed, but be he whoſe ſon he may, he cannot be puniſhed in this way for ſuch conduct; will you lay your hands on your hearts and ſay, whether the defendant has been more to blame than Miſs *Egan* herſelf?—ſhe has ſuffered much, her evidence ſhews it; at firſt from the terror of her father, now in preſerving her conſiſtency; to ſee her expoſed as ſhe was on the table—but has the defendant ſuffered nothing? Is it ſuffering nothing to be pnt in fear of his life? To have the horrors of a priſon to encounter? Is it nothing what he muſt have ſuffered in point of property?—He comes now, to reſiſt this laſt attempt, after all the others, to drive him, by robbing him of his property, to marry the daughter. Would you, gentlemen, adviſe your ſons to marry under ſuch circumſtances? I put it boldly to you, anſwer it, and your anſwer muſt be your verdict—after ten weeks voluntary cohabitation, would you adviſe him to marry? Or would you enſure a reaſonable proſpect of conjugal fidelity afterwards? Let me not take up your time, we will call witneſſes to diſcredit what ſhe has ſworn; let me ſay in excuſe for her, for what ſhe ſaid upon her oath, that ſhe came forward under the terror of her father's power. Certain it is that a ſenſe of female honour ſhould not have more influence upon her when in the other court, where ſhe was vindicating herſelf, than here where ſhe comes to drop money into her father's pocket.—The conſequence of large damages is this:—You will

will encourage every man to neglect the education of his child; making a fortune by dropping a ſeed of immorality in the mind of the female, which may ripen into that tree of enormity, that will be cut down; not to be caſt into the fire, but for the father's benefit. That a girl of eighteen, whoſe father forced her upon this table, whoſe ſufferings have been brought upon her by the leproſy of her morals, is to be countenanced If you wiſh to point out the path to matrimony through diſhonor, and you think it better that your daughter ſhould be led to the altar from the brothel, than from the parents arms, you may eſtabliſh that by your verdict. If you think it better to let the unfortunate author of her own miſery, benefit by the example ſhe may hold up, you will do it by ſuch a verdict as your underſtanding, not your paſſion dictates.

Firſt Witneſs for the Defendant.

Mr. Rd. Jones, *examined by* Mr. Ponsonby.

Q. Are you acquainted with the defendant?
A. I am.
Q. Have you ſeen Miſs *Egan*?
A. I have.
Q. Do you recollect ever ſeeing them together?
A. I think I ſaw them together on the 20th of September 1789.
Q. Where?
A. At Mr. *Egan's* houſe:—My father had taken examinations againſt Mr. *Kindillan*, and would not diſcharge him, until he knew whether Miſs *Egan* would ſwear poſitively or not; ſhe refuſed to do ſo, ſaying that the defendant never had ra

viſhed

viſhed her, that ſhe had gone off with her own conſent; in conſequence of which, my father liberated Mr. *Kindillan*.

Q. Were you preſent at the trial for the rape?

A. I was.

Q. Did Miſs *Egan* ſwear poſitively to the commiſſion of a rape?

A. I think ſhe did.

Q. Did you hear any converſation paſs between the defendant and Miſs *Egan*, relative to the elopement?

A. I did, twice.

Q. Did ſhe ſwear upon the trial that ſhe reſiſted?

A. She ſwore ſhe did as long as ſhe could, and called out.

Q. What was the converſation?

A. Mr. *Kindillan* told me, in her preſence, of ſome circumſtances that paſſed; he aſked her, did ſhe charge him with promiſing to marry her—No: ſhe ſaid on the contrary, ſhe had never aſked him, for that *Anne Carroll* had ruined her.

Q. Did Mr. *Egan* apply to you to carry a meſſage to the defendant?

A. Mrs. *Egan* ſent me a letter, which I delivered to the defendant.

Q. Did they apply to know whether the defendant would marry her?

A. They did.

Q. Did Miſs *Egan* accompany what ſhe ſaid with any declaration, that ſhe would not hurt him?

A. I cannot charge my memory with that.

Q. Did you report the anſwer that he would not marry her?

A. I reported the anſwer he gave me.

Q. Upon

Q. Upon the anſwer being received, was any declaration made by either Mr. or Mrs. *Egan?*

A. They ſaid he would be glad to marry when the examinations were lodged.

Q. Did Miſs *Egan* ever ſay ſhe would not proſecute him?

A. She ſaid—" My God, I cannot ſwear againſt him, becauſe he never promiſed me marriage."

Q. Did ſhe ſay that Mr. *Kindillan* had forced her away?

A. Very far from it, ſhe ſaid ſhe met him on the bridge.

Q. Did ſhe make any declaration relative to the treatment ſhe received from her father?

A. Yes:—That one day at breakfaſt, he took up a knife and threatened to hurt her—I do not recollect that *ſtab* was the word. She herſelf told me this.

Croſs-Examined by Dr. DUIGENAN.

Q. Pray Sir, are not you a ſon of the trading juſtice at Iſland-bridge?

A. I am the ſon of Mr. *Jones*, a magiſtrate and a gentleman.

Q. He takes money for diſtributing juſtice?

A. I ſuppoſe all magiſtrates do.

Q. You act as clerk for him?

A. Never did.

Q. When did you become acquainted with Mr. *Kindillan*.

A. On the 19th of September 1789, ſome people came to me with a priſoner; I ſaid, they were miſtaken, but I would go with them to my father's houſe.

Q. You

Q. You never ſaw him before?

A. Never.

Q. On what embaſſy did he firſt employ you?

A. He begged I would leave a letter at the Barrack, for Captain *Dennis*, his officer.

Q. On what other embaſſy did he employ you?

A. I do not recollect any other.

Q. When did you firſt become acquainted with Miſs *Egan?*

A. On the 20th of September, the day after Mr. *Kindillan* was taken.

Q. Upon what occaſion?

A. I accompanied Mr. *Kindillan* there.

Q. How came you to be introduced there?

A. My father told me, Miſs *Egan* wanted to ſee Mr. *Kindillan*—Upon our going into the room, Miſs *Egan* ran over to Mr. *Kindillan*, they embraced one another—ſhe cried out, "Why did you leave me."

Q. When was the next time you ſaw her?

A. The next day:—I met Mr. *O'Berne*, he requeſted I would go with him there; we went up ſtairs to know whether Mr. *Kindillan* ever promiſed marriage or not? ſhe declared he never did;—*O'Berne* told her, he would adviſe her father to lock her up, cut off her hair, faſten up the doors, and open a ſmall hole to admit proviſions.

Q. Did you ever adviſe Miſs *Egan* not to ſwear againſt Mr. *Kindillan?*

A. I never did.

Q. Did you ever ſay that her not ſwearing againſt him, would induce him to marry her?

A. Never, that I recollect.

Q. Did you ever ſee her again?

A. Mrs. *Egan* deſired me to bring them together again.

Q. Wha

Q. What paſſed?

A. There was much general converſation; I do not recollect all, he repeated the circumſtances of going off to her mother.

Q. Did you adviſe her, that it would be more honorable to wait till after the trial, when he would marry her?

A. I do not recollect.

Q. Did you ever ſay, "It would be better to do any thing than hang him."

A. Never, to my knowledge.

Q. What line of profeſſion is Mr. *Kindillan* in?

A. He is a Lieutenant of Dragoons.

Q. Do you not believe that he has a large bequeſt, under the will of the late Lord *Belvidere*?

A. I do not.

Second Witneſs.

MRS. ELLEN GREEN, *examined by*

MR. JOHNSON.

Q. Do you recollect the month of July 1789?

A. I do.

Q. Do you remember any perſons coming to your houſe for a lodging at that time?

A. I do:—I gave them a lodging.

Q. Did the lady ſpeak to you?

A. No.

Q. Did you ſpeak to her?

A. She avoided looking at me, ſhe looked baſhful.

Q. What

Q. What room did they ſleep in?
A. In the room off the dining-room.
Q. What room did you ſleep in?
A. In the one over the dining-room.
Q. Could you have heard any noiſe, if there was any in the night?
A. I muſt have heard it.
Q. Do you know what time they went to bed?
A. I do not know.
Q. Did you ſee her in the morning?
A. Yes
Q. Did ſhe make any complaint of any violence committed?
A. No: ſhe did not.
Q. Did you attend the laſt trial?
A. I did.
Q. Did you hear what was ſaid?
A. I did not.
Q. Could you have heard any noiſe?
A. I think ſo.
Q. Were you awake long that night?
A. I did not go to bed till one o'clock.
Q. You were in a ſituation to hear any noiſe?
A. I was.
Q. Was the general appearance of the lady next day, that of one who had ſuffered violence?
A. I did not obſerve:—She went into a coach.

Croſs-Examined by Mr. WHITESTONE.

Q. Where do you live?
A. In Tighe-ſtreet.
Q. Is it a public or a private ſtreet?
A. It is a thoroughfare.

Q. Did

Q. Did you ſee Mr. *Kindillan* there that night?

A. I did:—he aſked me was the room aired.

Q. Did they come to you in conſequence of the meſſage you gave the waiter?

A. I told the man, I could give no lodging—I did not like to lodge ladies; the meſſage was, that an officer and his wife wanted a lodging.

Q. Do you not believe that meſſage was ſent by Mr. *Kindillan?*

A. I do not know:—The meſſage was, that an officer of Dragoons, and a young lady, his wife, married three months, wanted a lodging.

Q. Was this an application for one night, or for a term?

A. For one night; and I ſaid I would not be troubled with them—I went to the Sun-Inn, and told the woman of the houſe, I would be glad to ſerve her.

Q. Did you think ſhe was the wife of the gentleman?

A. If I did not, I would not for a 1000 *l.* let her into my houſe.

Here the caſe cloſed, and Mr. PONSONBY roſe to ſpeak to evidence, on the part of the defendant;—but the LORD CHIEF BARON ſaid, he had heard enough to that already, by the defendant's counſel:—Beſides it was a rule laid down by all the Judges of Ireland, not to hear counſel ſpeak to evidence for a defendant, after the caſe was gone through; and if there had been no ſuch rule, he would adopt it in this caſe, where there had been, under pretence of ſtating a caſe, a very able and a very powerful ſpeech to evidence, to which he would give the plaintiff's counſel, if they choſe, an opportunity to reply.

Mr. CALDBECK, *in reply.*

My Lord, and Gentlemen of the Jury.

I am a very unequal match for the gentleman who addreſſed you, nor do I mean to follow him through all the flights of fancy, which he diſplayed upon this occaſion—fancy I will call it, becauſe it had no foundation, either in truth or in evidence. I ſhould not ſay a word, but that ſo much, gentlemen, has been ſaid to miſlead you from the nature of this action. It is an action ſeeking by a verdict to be repaired in damages, for that which exceeds reparation. It is not an action by a lady for a breach of promiſe of marriage, and yet that ſeems to be the idea of the gentlemen upon the other ſide by the examination of their witneſſes. It was not neceſſary to prove a promiſe of marriage:—If he uſed other means to ſeduce a young weak female from her father's houſe. But if a promiſe of marriage was neceſſary to be proved, has not Mr. *Kindillan* made *Carroll* a witneſs, though he has not dared to produce her. She was the conſtant companion of their peregrinations, in this kingdom, and out of it; ſhe uſed arguments to induce this lady to leave her father's houſe, and the defendant himſelf aſked Miſs *Fgan* whether ſhe was ſatisfied with the propoſals ſhe made. Every thing ſhe did, therefore, muſt be imputed to Mr. *Kindillan*—ſhe was his inſtrument. My ſtory is ſhort and plain—That a young girl of eighteen, and I beg leave to ſuppoſe, ſhe was well educated, for notwithſtanding all that has been ſaid, there was not one witneſs produced to impeach her character, and I call upon you, gentlemen, to recollect, whether,

ther, when ſhe was upon the table, there was any mark of ill education about her; I ſuppoſe ſhe muſt have been ill educated, becauſe ſhe was not warned againſt the arts that is uſed at this day to debauch young ladies; ſhe muſt have been ill educated, becauſe ſhe has not been verſed in all the tricks of vice; gentlemen, theſe are a ſpecies of inſtruction, which convey poiſon, rather than medicine to the mind. The meaſure of abuſe is full—full till it run over.—This is ſaid to be a new action in this country; it is ſo, and I hope will be ſo, but the court, who looks into caſes decided in *England*, knows that it is not a novel action there:—The whole argument of the other ſide goes to this—that ſhe was not kept locked up, till delivered into the hands of a huſband. I will take up the words of the learned counſel; lay your hands on your hearts and ſay, would you like that a daughter of your's, ſhould be treated in this manner?—This gentleman, hot in blood, tampers with the ſervant, to preach his being an officer, his fortune, to the young girl, and under theſe impreſſions, ſtrengthened by a ſerious propoſal, gets her into a coach;—you, gentlemen, have heard the reſt; I ſhould be ſorry to go over it again. The only queſtion is, whether ſhe was ſeduced from her father's houſe, and whether he ſuffered any thing whatever by it. But nothing can be more ridiculous, than putting it upon how many caps ſhe could make:—Are the feelings of a father nothing? are three unmarried ſiſters nothing? I ſhould be aſhamed to take up more of your time. Even in treaties of marriage you do not expect ſo much preciſion, as when two members of the bar meet together, to tranſfer the perſons and fortunes

by

by deeds of conveyance. The words uſed by the defendant would carry the meaning put upon them, to all the young ladies in the kingdom.

LORD CHIEF BARON YELVERTON'S *Charge.*

Gentlemen of the Jury.

THIS is an action by the plaintiff, for the ſeduction of his daughter, and the conſequent loſs of her ſervice; founded upon the relation between a parent and maſter, ſervant and child; and if a contract for ſervice, or undertaking of a party impoſe an obligation, ſo much the more does the ſacrament of our exiſtence, as it has been eloquently called, impoſe a ſtronger obligation upon the child to ſooth the care, and adminiſter to the comfort of a parent. If a man entice the ſervant or apprentice of another, he may maintain an action againſt the enticer for the loſs of ſervice; much more ſtrongly is the father entitled to damages for the loſs of the ſervice of the child. You will conſider what a wide difference there is between the menial ſervice of a hireling, and thoſe tender offices performed by a child, and a child of that ſex, whoſe attentions are ſo tender—doubly grateful to the parent; inaſmuch as they flow from a ſenſe of duty, and while he is gratified himſelf he ſees her derive a pleaſure from her own conduct. Therefore you will not weigh in the ſame ſcale, thoſe

ſervices

ſervices flowing immediately from the heart, and thoſe reluctant ones which are performed merely in diſcharge of a contract. In this caſe, I think the act of ſeduction is fully proved; and it is truly ſaid, it matters not, what the means were, whether marriage was promiſed or not; as that can be only material in this, that if ſhe was ſeduced by a promiſe of marriage, it would aggravate the offence; if ſhe was ſeduced by means leſs baſe, you might extenuate the damages. Here the girl herſelf, (who has told a fair, ingenuous ſtory, to my judgment, but of her credit you are to decide) ſays, he never promiſed marriage, till they were in the *Iſle of Man;* but that the agent of the defendant brought propoſals of marriage, which ſhe thought came from him, and it is juſtly obſerved, that having made that woman his agent, every thing that came from her, muſt be imputed to him. How does he effect this? he exhibits himſelf before the windows, this he was in the habit of doing, eleven or twelve days—he keeps lurking about the houſe—gets acceſs to the maid—propoſes they ſhould be united, and when he has an opportunity of accoſting the lady herſelf, he ſays he will make her the happieſt woman alive. I leave it to you to determine what meaning ſhould be put upon theſe words—After a conſent obtained by impoſture, ſhe is conducted to a place near the ſea, and finding her diſappointed, he makes her eaſy by aſſurances of his intention; then ſhe is brought from place to place, and is able to defend her honour, till depriving her of her ſenſes, he deſpoils her; but he appears not only to have deſpoiled her of her honour, but to have corrupted her mind, for by the evidence of *Jones*, ſhe ran to him, notwithſtanding

withſtanding his treatment of her. If you believe that no extraordinary art was uſed, you may mitigate the damages; but if you think that he, by himſelf or his agent, induced her to think he would marry her, you may aggravate them; for though the value of the ſervice is the gift of the action, yet the baſeneſs of the means, will be taken into conſideration, when you appreciate thoſe damages.

The Jury retired for about half an hour, and found a verdict for the plaintiff, 500*l.* damages, and ſix-pence coſt.

FINIS.